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Human Rights Committee

Concluding observations on the third periodic report of the Czech Republic

Addendum

Information received from the Czech Republic on follow-up to the concluding observations*

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Introductory remarks

1. Based on the consideration of the Third Periodic Report on the Implementation of the International Covenant on Civil and Political Rights (CCPR/C/CZE/3) (hereinafter "the Report" and "the Covenant") before the Human Rights Committee (hereinafter "the Committee") on 16th and 17th July 2013, the Committee adopted the concluding observations (CCPR/C/CZE/CO/3). In paragraph 23 of these observations it called on the Czech Republic to provide within one year relevant information on its implementation of the Committee's observations contained in paragraphs 5, 8, 11 and 13 a). The submitted statement of Czech Republic includes the relevant information.

2. After the examination of the statement by the Committee, the Czech Republic was asked by a letter of the Special Rapporteur for Follow-up to Concluding Observations from April 2015 to submit some additional information on the implementation of the selected concluding observations. The information is included in the following document.

Additional information on the implementation of recommendation No. 5

3. It is possible to infer from the information referred to in the previous statement that the Public Defender of Rights, based on its existing legal mandate, meets a majority of the Paris Principles. At the present time, the mandate of the Public Defender of Rights covers basically all the human rights and most aspects of their protection. Within its mandate, the Public Defender of Rights can deal with all matters based on a complaint or at its own discretion, and is able to find out, within its quasi-judicial competence, whether or not human rights were respected in the given case. All the respective bodies are obliged to collaborate with the Public Defender of Rights. Consequently, its findings and recommendations should be implemented by such bodies. Based on working on individual case or thematic researches, the Public Defender of Rights prepares complex analyses and formulates recommendations aimed at improvement of human rights protection. The Public Defender of Rights regularly informs the public about these recommendations and its additional activities through the media and/or internet pages. The Public Defender of Rights is also formally involved in preparation of government materials and communicates on human rights protection with the individual ministries within their competence. Legal guarantees of independence of the Public Defender of Rights also correspond to common guarantees laid down by the Paris Principles. The Office of the Public Defender of Rights also permanently and expertly ensures fulfilment of the Public Defender of Rights' tasks in all the fields of its competence.

4. The submitted amendment to the Act on Public Defender of Rights thus solely extends the legal powers of the Public Defender of Rights in full compliance with the Paris Principles. Specifically, new powers should include a motion to the Constitutional Court for the abrogation of an act or its provisions due to inconsistency with constitutional order, including the Charter of Fundamental Rights and Freedoms, action in the public interest in the case of discrimination, and monitoring the fulfilment of the Convention on the Rights of Persons with Disabilities. The amendment is at the present discussed by the Chamber of Deputies of the Parliament of the Czech Republic.

5. Pursuant to Act on Public Defender of Rights, costs incurred for activities of the Public Defender of Rights and its Office are covered from a separate chapter of the state budget.[1] According to the approved state budget, in 2014 the Office had available over 107 million of Czech Crowns. The state budget plans a similar amount for 2015. In 2014, the Office employed 123 employees, including 74 expert lawyers involved in expert

[1] Section 26 of the Act on Public Defender of Rights.

activities of the Public Defender of Rights. In 2015, about 130 employees, including 80 lawyers were employed by the Office of the Public Defender of Rights.

Additional information on the implementation of recommendation No. 8

6. The Roma Integration Strategy until 2020 was approved by the Government on February 23, 2015. Given the date of the approval, the implementation of the strategy is at the beginning, as the approved measures are more of a long-term character. At the present time, strategy fulfilment indicators and performance indicators are being prepared. The measures in the field of supporting the Roma as a distinctive national minority aim at achieving four fundamental goals: preserving the cultural heritage of the Roma and support for its research, effective support of the use of Roma language, preserving a permanent remembrance of victims of the Roma holocaust and securing dignified homage to their memory, creating conditions for impartial information on the Roma minority, culture and present situation, traditions and opinions of the Roma.

7. Specific steps are taken to permanently support and provide financing for the Museum of Roma Culture, to support research of Roma language, culture and history, including development of Roma studies and the world Romani festival Khamoro. Teaching the Romani language as a minority language will be supported at elementary schools, along with development of methodical and didactical materials and tools for such teaching. Teaching the Czech language to Roma children will also be supported. The Minister for Human Rights, Equal Opportunities and Legislation will support a dialogue with experts, the Roma civil society and Roma holocaust survivors, paying tribute to victims of the holocaust and compensation of the related wrongs. The topic of Roma holocaust will be popularized through the public media and in close collaboration with the Museum of Roma Culture and other non-government organizations. Place of reverence in Lety u Písku and Hodonín u Kunštátu will be continuously maintained and developed as public accessible memorials in line with their reverential value. Furthermore, efforts will be made to adopt measures which would lead to removing the pig farm located close to the place of reverence in Lety u Písku. All such steps will be discussed with the Government Council for Roma Minority Affairs in order to ensure a dignified tribute to the victims. The Ministry of Culture will subsidize the support of Roma culture development and support spreading information on Roma minority culture, language, history and present. The Ministry of Education, Youth and Sports will include the information on Roma culture and history into framework educational school programs and into educational materials for pupils and students at all stages of the education systems, into education system for pedagogical workers and methodical teaching materials. The Minister for Human Rights, Equal Opportunities and Legislation will contribute to incorporation of Roma topic into broadcasting in the public media, both through programs for Roma and incorporation of Romani and Roma topic into other programs. The inclusion of the Romani language as a common communication language into public media broadcasting, e.g. by subtitling of Roma contributions into the Czech language and vice versa will support mutual language knowledge. All the tasks will be continuously fulfilled and the fulfilment thereof will be monitored by means of the new aforementioned indicators.

8. In 2014, the Judicial Academy organized 15 seminars on extremism-related topics or connected therewith. Two seminars specifically dealt with efforts to combat extremism. Other seminars dealt with topics like Institutes of the Criminal Procedure Code used to combat extremism, The rights of crime victims or Roma history and culture. The educational events were attended by 673 persons – judges, state attorneys, assistants of judges, trainee judges and judicial trainees for the position of state attorneys. Altogether 39 persons participated in seminars specialized at combating extremism; most persons, i.e. 736 ones participated in seminars on the rights of crime victims. In 2015, two seminars on extremism issues were organized with 58 participants. Other events involving organized crime topics or extremist acts in prisons and protection the rights of crime victims are pending. Nine events were attended by altogether 402 persons.

9. The Police of the Czech Republic continued in training specialists of Service of Criminal Police, and carrying out investigations described in the previous statement. In 2014, one term training session for commanders of security measures was organized. Within the course "Preparing, Processing and Archiving Digital Visual Data", seven police experts for extremism were trained. Within two terms of "Training of Members of Anti-Conflict Teams of the Police of the Czech Republic", 26 specialists were trained. Combating extremism continues to be taught in the Police Academy of the Czech Republic, Bachelor's studies, in the extent of 36 hours yearly; in average, 150 students participate. Combating extremism is also taught within the lifelong education for active members of the security bodies or for police specialists and police school teachers; in 2014, 175 persons participated. The topic of extremism is continuously included into teaching in secondary police schools. Also, activities involving teaching safety measures for police chiefs, training specialists of Service of Criminal Police and investigation and education for members of anti-conflict teams continue. Regional liaison offices for minorities referred to in the previous Statement of the Czech Republic are also continuously educated extremism-related topic and treatment of minorities. Members of the Police of the Czech Republic regularly meet Regional Coordinators for Roma Affairs, Roma Advisors to Municipalities and other workers of self–governance and non-government organizations who work with Roma minority, exchanging their experience and knowledge which in turn are included into education of policemen. Within the project Implementation of the police specialists in the field of police work in relation to Roma minority group in the excluded localities, the Police of the Czech Republic is also preparing a large public opinion survey focusing on the police work with the Roma community. The results of such survey will be used for setting parameters of police work with minorities and of further development of education of the Police of the Czech Republic. International human rights and humanitarian organizations such as Organization for Security and Cooperation in Europe – Office for Democratic Institutions and Human Rights (OSCE-ODIHR) are also collaborating in the field of education.

10. Statistics on crimes involving racism and extremism are introduced in the following tables.

Number of extremist crimes motivated by the affiliation of the victim with a certain ethnic, racial or other group or the propagation of national or racial hatred in 2007-2012 according to the types of crime

Crime	*2013*	*2014*
Violence against an individual or a group of people	19	12
Defamation of nation, race, ethnic or other groups of people	37	27
Instigation of hatred towards a group of persons or of restriction of their rights and freedoms	13	18
Racially motivated murder	0	1
Racially motivated bodily harm	19	5
Racially motivated grievous bodily harm	0	1
Racially motivated extortion	0	0
Racially motivated damaging another person's property	3	5
Establishment, support and promotion of a movement seeking to suppress human rights and freedoms	9	9
Expressions of sympathy for a movement seeking to suppress human rights and freedoms	63	85
Denial, Impugnation, Approval and Justification of genocide	8	7

Source: Ministry of Interior.

Number of prosecuted and accused persons for crimes motivated by a racial, national or other hatred in 2007-2012

Crime	*State of process*	*2013*	*2014*
Violence against an individual or a group of people	Prosecuted	20	16
	Charged	20	15
Defamation of nation, race, ethnic or other groups of people	Prosecuted	27	23
	Charged	25	18
Instigation of hatred towards a group of persons or of restriction of their rights and freedoms	Prosecuted	2	6
	Charged	2	6
Racially motivated murder	Prosecuted	0	2
	Charged	0	2
Racially motivated bodily harm	Prosecuted	21	8
	Charged	21	8
Racially motivated grievous bodily harm	Prosecuted	3	3
	Charged	3	3
Racially motivated extortion	Prosecuted	0	1
	Charged	0	1
Racially motivated damaging another person's property	Prosecuted	1	3
	Charged	1	3
Establishment, support and promotion of a movement seeking to suppress human rights and freedoms	Prosecuted	18	15
	Charged	18	15
Expressions of sympathy for a movement seeking to suppress human rights and freedoms	Prosecuted	27	57
	Charged	24	53
Denial, Impugnation, Approval and Justification of genocide	Prosecuted	1	5
	Charged	1	5

Source: Supreme Prosecutor's Office.

Number of convicted persons for racially motivated crimes in 2009-2012

Crime	*2013*	*2014*
Violence against an individual or a group of people	9	2
Defamation of nation, race, ethnic or other groups of people	29	8
Instigation of hatred towards a group of persons or of restriction of their rights and freedoms	0	1
Racially motivated murder	0	0
Racially motivated bodily harm	8	4
Racially motivated grievous bodily harm	6	0
Racially motivated extortion	0	0
Racially motivated damaging another person's property	1	7
Establishment, support and promotion of a movement seeking to suppress human rights and freedoms	25	42
Racially motivated disorderly conduct	32	24
Racially motivated violence against a public official	1	1

Crime	*2013*	*2014*
Racially motivated threatening of a public official	2	1
Racially motivated dangerous threatening	3	2
Racially motivated theft	1	2
Racially motivated breaking and entering of a home	0	0
Unlicensed Arming	1	1

Source: Ministry of Justice.

Penalties imposed

Penalty	*2013*	*2014*
Unsuspended sentence of imprisonment	2	7
Conditionally Suspended Sentence of Imprisonment	62	36
Community Service	4	8
Other	50	44

Source: Ministry of Justice.

11. Preventative activities are included in a majority of measures taken every year within the Strategy for Combating Extremism. They mostly involve the support of crime prevention in municipalities and socially excluded localities, as reduced criminality might contribute to peaceful coexistence between majority population and ethnic minorities. In 2013, altogether 257 crime prevention projects were supported in more than 170 municipalities and regions by an amount of more than 49 million CZK. In 2014, altogether 265 crime prevention projects were supported in more than 150 municipalities and 10 regions by an amount of more than 51 million CZK. The most significant projects are Crime Prevention Assistant and Janitor-Preventist. The task of the Crime Prevention Assistant is to assist the police in fighting crime in a socially excluded locality and to be involved in increasing security and maintaining public order. In 2013, the Crime Prevention Assistant project was implemented in altogether 46 municipalities and involved 140 assistants employed by the local police or municipality. In 2014, altogether 170 assistants were working in 53 municipalities. The Janitor-Preventist project involves community activities and work with persons with the aim to solve possible local problems and prevent tension in municipalities and locations. In 2013, this pilot project was conducted in five Czech cities; the number of participating cities increased to 12 in 2014, involving 26 janitors. Specific attention is paid to preventing crime connected with social exclusion and poverty, such as loan-sharking. Municipalities and other entities are educated how to prevent loan-sharking, increase effectiveness of the detection and investigation of loan-sharking cases while supporting victims thereof. In order to maintain social cohesion, active integration policy is intensified and foreigner integration projects will continue. Special attention is paid to preventing violent extremist crimes committed by young people and youth hate-crimes by implementing probation programs for young offenders aimed at reducing violence and supporting youth multi-disciplinary teams consisting of young people's specialist working at local level. To prevent social radicalization, it is important to cooperate with the media while preparing objective and responsible news coverage without generalizing stereotypes. Czech Police Hotline for reporting cybercrimes as described in previous Statement of the Czech Republic also significantly prevents spreading extremist opinion in public. The described government Campaign against Racism and Hate Crime or the aforementioned education programs of government bodies fulfil a similar public enlightenment task, as they should prevent government employees from inclining to

extremist ideas. Children and youth risk behaviour projects that target at children and young people and teachers working with children are supported at schools.

12. Victims of criminal activities motivated by racism may, within criminal proceedings, seek recovery of pecuniary and non-pecuniary damages caused by hate crimes. If the offender in the criminal proceedings should be found guilty of a committed crime, the court will impose on him in its judgment to compensate the victim the pecuniary and non-pecuniary damage caused by the crime.[2] The victim may also recovery of pecuniary and non-pecuniary damages in civil proceedings. Unfortunately, information on individual judgments and awarded damages is not centrally recorded. Nevertheless, as an example, we can mention the well-known arson attack on the home of a Roma family in Vítkov, North Moravia, in April 2009; the victims were awarded damages amounting to 9.5 million CZK and compensation of medical costs amounting to 7.5 million CZK; or an arson attack on the home of a Roma family in Býchory in Central Bohemia in July 2001 whose victims were recognized by court compensation of non-pecuniary damages amounting to CZK 100,000. Victims of racial crimes can also receive aid pursuant to Act on Crime Victims, as described in the previous statement. The entire information on the provided aid is referred to further. However, the statistics are not classified according to the types of crime, and thus it is not possible to provide more detailed information.

Statistics of compensation of crime victims

Year	*2013*	*2014*
Number of applications	287	508
Number of settled applications	176	303
Applications settled by the provision of information	2	6
Applications settled by the provision of aid	102	119
Total amount provided in CZK	7 629 153,87	11 187 339,07
Applications rejected	61	154
Applications terminated otherwise	10	24
Applications pending	111	205

Reason for rejection	*2013*	*2014*
Late application	24	164
Damages evaluated lower than 100 points	6	0
Damage not proven	3	1
Damages not caused by a crime	0	4
Damages of other than bodily kind	0	2
Application taken back	1	1
Damages caused by the employer	3	4
Application referred	0	0
Damages compensated by an insurance	7	7
Other legal reason	17	118

Source: Ministry of Justice.

[2] Section 228 of the Criminal Procedure Code.

Additional information on the implementation of recommendation No. 11

13. The Government of the Czech Republic debated the bill on the compensation of the victims of unlawful sterilizations at its session on September 30, 2015 and rejected the bill at the end. The government properly considered all the arguments arising from the Czech constitutional order, judicial decisions of the Czech Courts, including the Constitutional Court, standpoint of the Public Defender of Rights, observations of international human rights bodies, and judicial decisions of the European Court for Human Rights. In its decision, the Government particularly considered difficulties while evaluating individual cases that often happened long ago, the issue of possible failure to keep medical documentation or other documents and the lack of other documentation required to evaluate the cases. Unlawfully sterilized persons could be subjected to long-lasting and complicated procedures which might not necessarily lead to awarded compensation. Thus the out-of-court mechanism would most probably fail to be an effective supplement to existing compensation measures for unlawfully sterilized persons.

14. In the Czech law, the principal remedial measure has been and is an action for the protection of personal rights whereby the unlawfully sterilized person could have sought pecuniary and non-pecuniary damages (e.g. an apology). The pecuniary damages are subject to statutory limitation as other monetary claims, the period of time limitation being three years. The aim of this legal rule is to ensure legal certainty in relationships among private persons and to prevent disputes regarding old facts dated many years ago that might be difficult to prove. According to the European Court for Human Rights, the principle of statutes of limitation in this general nature complies with the Convention on the Protection of Human Rights and Fundamental Freedoms, if it enables a victim to seek remedy under adequate conditions. In addition, the Czech courts have to decide, at any times, in accordance with good morals and principles of justice. Therefore, if the objection of statutory limitation should be too hard for a person who is not responsible for the elapsing of the limitation period and therefore should result in the denial of her claim, the court shall not recognize such an objection and, on the contrary, the court is obligated to provide compensation. Thus it is possible to solve such cases where unlawfully sterilized persons would be inadequately damaged by application of the statute of limitation, as the Supreme Court did in two judgments dated 2011 and 2014. In this respect, the Government of the Czech Republic deems the remedial measure of court action to be adequate in light of its international obligations, and creation of a supplementary compensation mechanism has always been deemed ex gratia act, i.e. amicable step exceeding the framework of international obligations of the Czech Republic, as referred to in the previous statement.[3]

15. The new system addressing access to legal aid is in the process of creation, and thus it is not possible to present it in detail. As referred to the previous statement, its goal is to provide access to legal aid to everybody disregarding their property situation, not only during the court proceedings but also before such proceedings, so that everybody can solve their legal problems out-of-court and protect their rights effectively. The existing system emphasizes the aid within the court proceedings where the aid is awarded by courts or, as the case may be, provided the Czech Chamber of Advocates. The new system will be connected with that basis and expand it. The Government should be presented with this system for its evaluation by the end of this year. Unlawfully sterilized person should have access to legal aid while enforcing their claims in court under the existing system, as the

[3] See also the previous Statement of the Czech Republic, e.g. Observation No. 19 of the Committee on the Elimination of All Forms of Racial Discrimination CERD/C/CZE/CO/8-9 and relating Statement of the Czech Republic CERD/C/CZE/CO/8-9/Add.1, Sections 22 and 23 or 10. and 11. Periodic Report of the Czech Republic on Observing the International Convention on the Elimination of All Forms of Racial Discrimination /C/CZE/CO/10-11, Section 84.

courts can waive their court fees[4] and appoint an attorney to protect their rights[5] at the expense of the state.[6] The new system will continue to guarantee such rights.

16. The previous Statement of the Czech Republic has described the conditions for initiating criminal prosecution pursuant to the Czech rules of law and international obligations of the Czech Republic, including the International Covenant on Civil and Political Rights. All cases of unlawfully sterilized person which had been reviewed by bodies in charge of criminal proceedings were duly examined pursuant to the aforementioned rules; the result was described in the previous Statement of the Czech Republic. These proceedings were thus closed upon a final and conclusive judgment. Moreover, as emphasized in the previous Statement of the Czech Republic, criminal proceedings cannot be initiated after a lapse of certain period of time after the crime was committed. These periods vary from three to twenty years, depending on seriousness of the crime.[7] This period of time has lapsed in certain cases and consequently, criminal proceedings could not have been initiated. Obviously, these rules will have to be respected also in any other criminal proceedings involving unlawful sterilization. At the present time there is no information about pending criminal proceedings involving unlawful sterilization pursuant to such rules or about convictions of certain persons. This is connected with the fact that, also in accordance with the findings of the Public Defender of Rights, most of such cases occurred prior to year 2000.

17. Specific measures to ensure that sterilizations should be performed solely with the patient's free, prior and informed consent consists particularly in a new and elaborated legal regulation. Its key element is the doctor's duty to obtain the patient's written consent to sterilizations[8] which is filed in the patient's medical documentation.[9] If the patient is a minor or a person with limited legal capacity, also the consent of an independent expert committee and a court is requested on top of a written consent of their legal representative.[10] Another aspect is the duty to provide the patient with information about the proposed individual medical procedure, its permanent consequences and possible risks and possible consequences. This duty lies with the doctor and the information must be provided in front of a witness – medical employee. The doctor, patient and witness will sign a record on provision of information. Such record is also a part of the patient's medical documentation.[11] If the patient is a minor or a person with limited legal capacity, this information is provided also by the independent expert committee evaluating their case, in their presence, taking into regards their maturity. In such a case, the record on provision of information will be signed, besides the patient, by their legal representative and members of the independent expert committee and is made part of the patient's medical documentation.[12] All documents can thus be easily found. Another element of ensuring the patient's free, prior and informed consent to sterilization is the period of time between information provision and performance of the medical procedure; such period of time consists of seven days in case of a sterilization due to medical reasons, and fourteen days in case of a sterilization due to reasons other than medical ones.[13] The last guarantee is the doctor's duty to obtain the patient's or their legal representative written consent once more

[4] Section 138 (1) of the Civil Procedure Code.
[5] Section 30 (1) of the Civil Procedure Code.
[6] Section 138 (1) of the Civil Procedure Code.
[7] Section 34 and sq of the Criminal Code.
[8] Section 13 (1) and Section 14o of Act on Specific Health Care Services.
[9] Section 1 of Decree on Health Care Documentation.
[10] Section 13 (2) of Act on Specific Health Care Services.
[11] Section 15 (1) of Act on Specific Health Care Services.
[12] Section 13 (6) of Act on Specific Health Care Services.
[13] Section 15 (1) of Act on Specific Health Care Services.

shortly before the procedure begins.[14] This consent is also filed in the patient's medical documentation.[15]

18. Control and Sanction Mechanisms were described in the previous Statement of the Czech Republic. The aforementioned duties to keep written documents about providing information and granting consent to perform sterilization filed in the medical documentation facilitate control of doctors while performing sterilization. The control authorities can thus easily check whether or not the doctor's duties to provide information to patients and obtain their consent are met, and whether the respective documents are filed in the medical documentation. Thus it can be easily found out whether the patients' rights are actually protected in practice. In practice, controls of health care providers are made if necessary and, as referred to in the previous Statement of the Czech Republic, no problems regarding sterilizations were found.

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[14] Section 15 (2) of Act on Specific Health Care Services.

[15] Section 1 (2) (i) of Decree on Health Care Documentation.